

MERCHANTS
BONDING COMPANY

COMMIT #6
DATE Feb 9th
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February 8, 2011

The Honorable Pat Ingraham, Chair, and Members
House State Administration Committee Montana House of Representatives
State Capitol
Helena, MT 59620

RE: Notary Journal Requirement

This letter is in response to a proposal to eliminate the notary journal requirement in Montana. This letter supports a journal requirement.

A notary journal is a critical record of a notary's actions. It lists a variety of important information about the transaction including the date, the type of document, and the type of identification used, the notarial act and the signature of the person being notarized, as well as the thumbprint of the person in some states.

This information is very important in understanding the actions of the notary when a dispute arises over a document that contains a notarization. This information may help the authorities and the parties involved in the dispute to determine if the notary carried out their duties faithfully, or if one of the parties involved may have misrepresented themselves in the notarial transaction.

As an underwriter of surety bonds and notary errors and omissions policies, we are involved in a wide variety of cases in which the notary has been accused of wrongdoing. Often the journal is the primary piece of evidence to determine what actually occurred and the journal requirement is an important element in maintaining integrity in the notary process, in our opinion.

Our outside counsel who represents individual notaries in litigation relating to alleged notarial misconduct has handled cases where the notary's journal allowed the police to locate a murderer who had forged his victim's name on a power of attorney. This was a big publicity case in San Francisco and the murderer happened to be a local attorney. Not only was the notary absolved by virtue of his notary journal, but also the journal proved to be an invaluable asset to law enforcement in solving a major crime.

Our counsel also has had numerous cases where the notary has been vindicated due to the signature and the thumbprint contained in the journal providing unimpeachable evidence that there was no forgery. Even in instances where there was a forgery, the existence of a well maintained journal helps establish that a fake ID must have been used and the notary complied with their duties.